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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/380,739	12/15/1999	Josef Otto Rettenmaier	017309/0172	3016

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EXAMINER

DOUYON, LORNA M

ART UNIT PAPER NUMBER

1751

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/380,739

Applicant(s)

RETTENMAIER ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-17, 19-22 and 24-27 is/are rejected.
- 7) ☒ Claim(s) 10 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 29.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. This action is responsive to the amendment filed on January 29, 2003.
2. Claims 1-17, 19-27 are pending.
3. The objection to claims 12, 21, 23 and 25 is withdrawn in view of applicants' amendment.
4. Claims 1-9, 11-17, 19-22, 24-27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wixon (US Patent No. 4,230,590) in view of Fry et al. (US Patent No. 5,360,567) for the reasons set forth in the office action in paper number 26.
5. Claims 10 and 23 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Applicants' Arguments***

6. Applicants' arguments filed on January 29, 2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Wixon in view of Fry, Applicants argue that Wixon fails to disclose a cellulose that is in compact form and subsequently granulated. Applicants also argue that simply putting soap as "smearing agent" with cellulose through an

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extruder, as disclosed in Wixon, will result in a soap that contains cellulose, however, the cellulose will not act as a disintegrating agent since none of the pressure from the extrusion process will make the cellulose fibers adhere to each other. Applicants also argue that the Fry does not disclose or suggest the particle size of the cellulose or compacting the cellulose prior to its admixture to the matrix of particles.

The Examiner respectfully disagrees with the above arguments because Wixon teaches a soap cellulose ether mixture which is prepared by mixing in the desired amounts to form a substantially homogeneous mass which can be worked, according to well known technique, until it is sufficiently "doughy" or plastic to be in suitable form, preferably, extrusion or other process e.g. pelleting, granulation, stamping, pressing and roll milling to form shapes such as spaghetti or noodles, flakes, tablets, pellets, ribbons, threads and the like (see col. 5, lines 54-68), which have an average length from about 2 to 20 mm and an average diameter or width from about 0.2 to 2.0 mm and a bulk density from about 0.2 to 0.8 g/cc (see col. 6, lines 9-20), which particle size and density overlap those of the present claims. In addition, the "comprising" language of the present claims does not exclude the soap in the soap cellulose ether mixture of Wixon because "comprising" leaves the claim open for the inclusion of unspecified ingredients even in major amounts, see *Ex parte Davis et al.*, 80 USPQ 448 (PTO Bd. App. 1948). Also, the broad "comprising" and "containing" terminology do not exclude the presence of other ingredients in the composition, unlike the narrow "consisting of" language, see *Swain v. Crittendon*, 332 F 2d 820, 141 USPQ 811 (CCPA 1964). Hence, the soap cellulose ether mixture of Wixon should also

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act as a disintegrating agent, absent evidence to the contrary. Fry, the secondary reference was relied upon for his teachings of a heavy duty detergent composition in tablet form wherein the tablet form offers several advantages over powdered products in that the tablet does not require measuring and are thus easier to handle and dispense into the washload, and that the tablet is more compact, hence facilitating more economical storage (see col. 1, lines 13-19; col. 6, lines 56-61). Hence, the combination of Wixon and Fry is proper and is maintained.

With respect to applicants' request for a potential interference with US Patent No. 6,051,545, this will be held in abeyance until such time applicants overcome prior art of record. In the event the prior art is overcome by Applicants, for a potential interference to be declared, it is suggested that Applicants submit a declaration stating that "Arbocel A1" is a compacted cellulose material. Applicant may also provide a published literature regarding "Arbocel" and in the event the date is not prior to the effective filing date of the present application, Applicant may provide a declaration stating that the chemical make-up or composition of Arbocel has not changed since the filing of the application.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

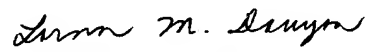
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is:

(703) 872-9311 - for Official After Final faxes  
(703) 872-9310- for all other Official faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

April 16, 2003

  
Lorna M. Douyon  
Primary Examiner  
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